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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,533	06/30/2003	Scott A. Waldman	08321-0169 CT1	4518
35148	7590	01/29/2008	EXAMINER	
Pepper Hamilton LLP			YU, MISOOK	
400 Berwyn Park			ART UNIT	
899 Cassatt Road			PAPER NUMBER	
Berwyn, PA 19312-1183			1642	
			MAIL DATE	DELIVERY MODE
			01/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,533

Applicant(s)

WALDMAN ET AL.

Examiner

MISOOK YU

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 8-13, 19-20, 29-31 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-13, 19-20, 29-31, and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-3, 8-13, 19-20, 29-31, and 39 are pending and under consideration.

Claim Rejections - 35 USC § 112, Maintained

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 8-13, 19-20, 29-31, and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant argues that based on amendment to the specification (i.e. Paragraph [0051]) this rejection should be withdrawn. The amendment to Paragraph [0051] and applicant argument have been fully considered but found not persuasive because the specification now give two conflicting instructions as to the structural nature of what is being "CDX1" recited in the claims. The specification as originally filed still says that CDX1 sequence is incorporated into the specification from an art-known sequence. Note the paragraph [0049] below.

[0049] The amino acid of the CDX1 protein and the nucleotide sequence of the CDX1 gene transcript is set forth in GenBank Accession No. XM 003791, which is incorporated herein by reference.

SEQ ID NO: 1 disclosed in the instant specification does not match with any art-known sequence although the specification reasonably communicates that applicants have not discovered new CDX1 sequence.

Note search result of instant SEQ ID NO: 1 in GenEmbl databases.

20071022_153920_us-10-611-533-1.rgs						123,583 bytes	GenEmbl
10611533 - SCORE Search Result File - 20071022_153920_us-10-611-533-1.rgs							
Result No.	Score	Match	Length	DB	ID	Description	
1	1691	99.5	1856	2	AR576244	AR576244 Sequence	
2	1691	99.5	1856	2	AX382104	AX382104 Sequence	
3	1684.8	99.2	1700	2	C0727593	C0727593 Sequence	
4	1661.6	97.8	1699	2	AX951709	AX951709 Sequence	
5	1661.6	97.8	1699	2	AX959987	AX959987 Sequence	
6	1661.6	97.8	1699	2	CS047190	CS047190 Sequence	
7	1661.6	97.8	1699	2	DD018348	DD018348 SELECTION	
8	1661.6	97.8	1699	2	AR782818	AR782818 Sequence	
9	1661.6	97.8	1699	2	AX410735	AX410735 Sequence	
10	1661.6	97.8	1699	5	HSU51095	U51095 Human homeo	
11	1661.6	97.8	1700	2	AX926456	AX926456 Sequence	
12	1661.6	97.8	1700	2	BD399819	BD399819 BREAST CA	
13	1661.6	97.8	1700	2	BD421457	BD421457 CANCER DI	
14	1661.6	97.8	1700	2	CS353059	CS353059 Sequence	
15	1244.2	73.2	1262	5	HSU15212	U15212 Human cauda	

Query Match 99.5%; Score 1691; DB 2; Length 1856;
Best Local Similarity 99.7%; Pred. No. 0;
Matches 1694; Conservative 0; Mismatches 5; Indels 0; Gaps 0;

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Qy      1 AGGTGAGCGGTTGCTCGTCGTCGGGGCGGCCGGCAGCGGCGGCTCCAGGGCCCAGCATGC 60
      ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db      5 AGGTGAGCGGTTGCTCGTCGTCGGGGCGGCCGGCAGCGGCGGCTCCAGGGCCCAGCATGC 64

Qy      61 GCGGGGGACCCCGCGGCCACCATGTATGTGGGCTATGTGCTGGACAAGGATTGCCCCGTG 120
      ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db      65 GCGGGGGACCCCGCGGCCACCATGTATGTGGGCTATGTGCTGGACAAGGATTGCCCCGTG 124

Qy      121 TACCCCGGCCAGCCAGGCCAGCCAGCCTCGGCCTGGGCCGCAAGCCTACGGCCCGCCG 180
      ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db      125 TACCCCGGCCAGCCAGGCCAGCCAGCCTCGGCCTGGGCCCGCAAACTACGGCCCGCCG 184

Qy      181 GCCCCGCCCCCGGCGCCCCCGCAGTACCCCGACTTCTCCAGCTACTCTCACGTGGAGCCG 240
      ||||||||||||||||||||||||||||||||||||||||||||||||||||||||||
Db      185 GCCCCGCCCCCGGCGCCCCCGCAGTACCCCGACTTCTCCAGCTACTCTCACGTGGAGCCG 244
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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU whose telephone number is 571-272-0839. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MISOOK YU
Primary Examiner
Art Unit 1642

/Misook Yu/